

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

SPHINX DIVERSIFIED SERVICES CORPORATION

Employer

and

UNITED UNION OF SECURITY GUARDS

Petitioner

Case 5-RC-15098

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.^{1/}
3. The Petitioner involved claims to represent certain employees of the Employer.^{2/}
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:^{3/}

All full-time and regular part-time security officers employed by the Employer at the Winder Building, 600-17th Street, NW and Annex, 1724 F Street, NW, Washington, D.C., but excluding all other employees, sergeants, operations manager, office clerical employees and supervisors as defined by the Act.

DIRECTION OF ELECTION

An Election by secret ballot shall be conducted by the undersigned among the employees in the unit(s) found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit(s) who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, striking employees who have been discharged for cause since the

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strike began and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by

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LIST OF VOTERS

To insure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this Decision. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays, and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. The request must be received by the Board in Washington by **October 24, 2000**.

Dated October 10, 2000

at Baltimore, Maryland

Acting Regional Director, Region 5



October 10, 2000

1/ Sphinx Diversified Services Corporation (the Employer), despite notice of the hearing herein, did not appear at the hearing. The Employer was served on September 14, 2000, with the Petition and Notice of Representation Hearing setting the hearing for September 22, 2000. By letter dated September 21, 2000, the Employer's President Hazem Sabry acknowledged that he was aware of the hearing scheduled for September 22 and asked for a postponement. Board Agent John O'Donnell responded by letter dated September 21, informing the Employer that pursuant to his request the hearing in this matter has been postponed until September 29, 2000. By letter dated September 28, 2000, Mr. Sabry asked for a longer postponement of the hearing in this matter, enclosed an executed facsimile copy of a standard stipulated election agreement filled in to reflect full election details and stated that this was a "conditional agreement." By letter dated September 29, 2000, the Acting Resident Officer for the Washington Resident Office of Region 5 notified the Employer that the Acting Regional Director for Region 5 would not approve a Stipulated Election Agreement with any conditions. Additionally, the letter stated that the hearing was rescheduled for October 2, 2000 and that no further requests for postponement would be considered. By letter dated September 29, 2000, the Employer's President Hazem Sabry responded to the Acting Resident Officer's letter. Mr. Sabry requested a third postponement stating that he could not be there on October 2. By letter dated October 1, 2000, sent by facsimile to the Employer on October 2, the Acting Resident Officer notified the Employer that the hearing would take place as scheduled on October 2, 2000. In none of the correspondence did the Employer set forth any issues which needed to be resolved at a hearing. The Employer did state in his September 29th letter that he has not had time to arrive at an educated decision.

The Stipulated Election Agreement that the Employer signed contained the following commerce language:

Sphinx Diversified Services Corporation, a Maryland corporation, is engaged in the business of providing security services for firms and institutions located throughout the United States including the Winder Building located at 600 17th Street, NW, and Annex located at 1724 F Street, NW, in Washington, D.C., the only locations involved herein, pursuant to a contract with the United States government. During the past 12 months, a representative period, the Employer has received gross revenues valued in excess of \$50,000 for services performed at the above-named locations, which are facilities of the United States Government.

Received into evidence were excerpts from the General Services Administration Service Contract for security guard services at the Winder Building, 600-17th Street, NW and 1724 F Street, NW, buildings located in Washington, D.C., and an affidavit from Janis Anderson, Contract Specialist for the General Services Administration. Ms. Anderson, in her affidavit, stated that this service contract runs for a single year from May 1, 2000, with four option years to follow. Under this contract, the Employer derives gross revenue of \$377,196 for the first year of the contract.

The Board has determined that it best effectuates the policies of the Act, and promotes the prompt handling of cases, to assert jurisdiction in any case in which an employer has refused, upon reasonable request by a Board agent, to provide the Board with information relevant to the

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Board's jurisdictional standards where the record at a hearing establishes that the Board has statutory jurisdiction, irrespective of whether the record demonstrates that the employer's business satisfies the Board's jurisdictional standards. Tropicana Products, 122 NLRB 121, 123 (1959).

Based on the commerce facts in the signed Stipulated Election Agreement, which was not approved by the Acting Regional Director, the affidavit of the Contract Specialist for the General Services Administration, and that plenary jurisdiction is exercised in the District of Columbia, I find that the Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2/ Since the Employer did not appear at the hearing, there is no stipulation regarding the labor organization status of the Union. The attorney for the Union stated on the record that the United Union of Security Guards (the Union) is a union that represents only security guards. It has a number of collective bargaining relationships in the Washington, D.C. and Baltimore metropolitan area. The record clearly shows that the Union admits employees to membership and represents employees in collective bargaining with employers, concerning wages, hours and working conditions. I find that the Union exists for the purpose, in whole or in part, for dealing with employers concerning wages, hours and other terms and conditions of employment, and that the Union is a labor organization within the meaning of Section 2(5) of the Act. Alto Plastics Mfg. Corp., 136 NLRB 850, 851-852 (1962); Butler Mfg. Co., 167 NLRB 308 (1967); Michigan Bell Telephone Co., 182 NLRB 632 (1970).

3/ The Union amended its petition at the hearing to correspond with the unit description in the Stipulated Election Agreement that was signed by the Employer. The unit description is as follows:

All full-time and regular part-time security officers employed by the Employer at the Winder Building and Annex, but excluding all other employees, sergeants, operations manager, office clerical employees and supervisors as defined by the Act.

There are approximately 20 employees in the petitioned-for unit and there is no history of collective bargaining with respect to these employees. The Union waived the filing of a post-hearing brief.

I find that the unit petitioned-for is an appropriate unit and direct an election in that unit.